INDEX.

	Page
Opinion below	1
Jurisdiction	1
Question presented	2
Federal statute and state constitutional provisions, statutes, and regulations	2
Statement	3
The question is substantial	5
Conclusion	17
Appendix A	18
Appendix B	20

CITATIONS

Cases:

Atchison, T. & S. F. Ry. Co. v. *Scarlett*, 300 U. S. 471, rehearing denied, 301 U. S. 712	12
Beck v. *Game and Fresh Water Fish Commission*, 160 Fla. 1, 33 So. 2d 594	9
Bell v. *Vaughn*, 155 Fla. 551, 21 So. 2d 31	10
Briley Estate, In re, 155 Fla. 798, 21 So. 2d 595	12
Bronson v. *State of Florida*, S. Ct. of Florida, decided January 6, 1956, 83 So. 2d 849	8
Florida Livestock Board v. *Gladden*, S. Ct. of Florida, 76 So. 2d 291	12
Geer v. *Connecticut*, 161 U. S. 519	8
Griffin v. *Sullivan*, 158 Fla. 870, 30 So. 2d 919	10
Lilly v. *Grand Trunk R. Co.*, 317 U. S. 481	12
Nashville, C. and St. L. Ry. v. *Browning*, 310 U. S. 362	8
Phillips v. *United States*, 312 U. S. 246	12
Price v. *City of St. Petersburg*, 158 Fla. 705, 29 So. 2d 753	10
Roumanian American Winery, Inc. v. *Morgenthau*, 152 F. 2d 452	11

Cases—Continued

	Page
Sylvester v. *Tyndall*, 154 Fla. 663, 18 So. 2d 892	10
United States v. *American Trucking Association*, 310 U. S. 534	16
West v. *American Telephone and Telegraph Co.*, 311 U. S. 223	8

Federal statutes:

Federal Black Bass Act, Act of May 20, 1926, as amended, c. 346, 44 Stat. 576, 46 Stat. 845, 61 Stat. 517, 66 Stat. 736, 16 U. S. C. 852, 853	14
Sec. 2	3, 20
Sec. 7	3, 21
Lacey Act, 31 Stat. 187	14
16 U. S. C. 704	7
18 U. S. C. 43	7

Florida constitution, statutes and regulations:

Article IV, Section 30, of the Constitution of Florida	4, 7, 21
14 Florida Statutes Annotated, Section 372.021, Laws 1943, c. 21945, Sections 4 and 5	5, 8, 22
14 Florida Statutes Annotated (1954 Cum. Pocket Part), Section 372.29, Laws 1951, c. 26766, Section 6, repealing Florida Statutes, Section 372.29	4
14 Florida Statutes Annotated, Section 372.83, Laws 1943, c. 21945, Section 6, as amended	5, 8, 25
Rule 14.01 of the Rules and Regulations of the Game and Fresh Water Fish Commission of Florida	5, 25

Miscellaneous:

H. Rep. 1610, 71st Cong., 2d Sess	14
H. Rep. 2148, 82d Cong., 2d Sess	15
H. Rep. No. 31, 69th Cong., 1st Sess	13
H. Rep. No. 986, 80th Cong., 1st Sess	15, 16
S. Rep. No. 612, 69th Cong., 1st Sess	13
S. Rep. No. 75, 71st Cong., 2d Sess	14
S. Rep. No. 288, 80th Cong., 1st Sess	15, 16
Sport Fishing Institute, Bulletin No. 26, issued January 1954	6

In the Supreme Court of the United States

OCTOBER TERM, 1955

No. ——

UNITED STATES OF AMERICA, APPELLANT

v.

LUDENIA HOWARD, TRADING AS STOKES FISH COMPANY

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, ORLANDO DIVISION

STATEMENT AS TO JURISDICTION

OPINION BELOW

The order of the district court quashing the information has not been reported. A copy thereof is set forth in Appendix A, *infra*, pp. 18–19.

JURISDICTION

On December 29, 1955, the district court entered an order quashing the information and discharging defendant on the ground that the information did not charge an offense under the Federal Black Bass Act, as amended (App. A, *infra*,

pp. 18–19). A notice of appeal to this Court was filed in the district court on January 27, 1956 (R. 1). Jurisdiction of this Court to review on direct appeal the decision of the district court quashing the information, on the ground that it did not charge a crime within the meaning of the statute upon which it was founded, is conferred by 18 U. S. C. 3731.

QUESTION PRESENTED

Whether the district court erred in construing the term "law of the State," as used in the Federal Black Bass Act (which prohibits interstate transportation of black bass and other fish if such transportation is contrary to the law of the state from which the fish is transported), as not including regulations issued by the Florida Game and Fresh Water Fish Commission, where (1) the Commission was created by a Florida constitutional amendment which vested it with sole authority to regulate transportation of fresh water fish in Florida and (2) the constitutional amendment provided that the legislature could pass laws in aid of the provisions of the amendment but not inconsistent therewith.

FEDERAL STATUTE AND STATE CONSTITUTION, STATUTES, AND REGULATIONS INVOLVED

The pertinent provisions of the Federal Black Bass Act of May 20, 1926, as amended, c. 346, 44 Stat. 576, 46 Stat. 845, 61 Stat. 517, 66 Stat.

736, 16 U. S. C. 852 and 853, and the applicable provisions of the Florida constitution, statutes, and regulations are set forth in Appendix B, *infra*, pp. 20–26.

STATEMENT

Sections 2 and 7 of the Federal Black Bass Act of May 20, 1926, as amended, App. B, *infra*, pp. 20–21, make it an offense for any person to transport any black bass or other fish from any state if such transportation is contrary to the law of the state from which the fish is transported. A criminal information was filed against the appellee, in the United States District Court for the Southern District of Florida, on July 20, 1955 (R. 1), charging the defendant with having violated the Federal Black Bass Act by transporting fish across the Florida border on or about May 16, 1955, contrary to the laws of that state (R. 2–3). The district court quashed the information on the ground that there was no law of Florida which prohibited the transportation of the said fish, holding that the rules and regulations of the Game and Fresh Water Fish Commission of Florida, which contain the only prohibition by Florida of the out-of-state transportation of the fish in question, do not constitute a "law of the State" within the purview of the Federal Black Bass Act.

The Game and Fresh Water Fish Commission of Florida was created in 1942 by a constitutional

amendment (Article IV, Section 30, Constitution of Florida), *infra*, pp. 21–22, which provides that "from and after January 1, 1943, the management, restoration, conservation and regulation of the birds, game, fur bearing animals, and fresh water fish of the State of Florida, and the acquisition, establishment, control and management, of hatcheries, sanctuaries, refuges, reservations, and all other property now or hereafter owned or used for such purposes by the State of Florida, shall be vested in [the] Commission * * *". The Amendment gave the Commission "power to fix bag limits and to fix open and closed seasons, on a state-wide, regional or local basis, as it may find to be appropriate, and to regulate the manner and method of taking, transporting, storing and using birds, game, fur bearing animals, fresh water fish, reptiles, and amphibians". The amendment also provided that "The Legislature may enact any laws in aid of, but not inconsistent with, the provisions of this amendment, and all existing laws inconsistent herewith shall no longer remain in force and effect.[1] All laws fixing penalties for the violation of the provisions of this amendment and all laws imposing license taxes, shall be enacted by the Legislature from time to time."

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[1] Pursuant to this latter provision, the legislature in 1951 repealed a statute (Fla. Stat., Sec. 372.29) which had prohibited the out-of-state transportation of fish. Laws 1951, c. 26766, sec. 6, F. S. A. 372.29 (1954 Cum. Pocket Part).

Section 372.021 of the Florida Statutes Annotated (Laws 1943, c. 21945, Sections 4 and 5), *infra*, pp. 22–24, implements the constitutional amendment by authorizing the Game and Fresh Water Fish Commission to exercise "the powers, duties and authority granted by Section 30, Article IV of the Constitution of Florida by the adoption of rules, regulations and orders", and prescribes the procedure for promulgation of the Rules. Rule 14.01 of the Commission's Rules and Regulations, *infra*, pp. 25–26, now prohibits, except as therein otherwise provided, the transportation of black bass and other species of fresh water fish out of Florida. Section 372.83 of the Florida Statutes Annotated (Laws 1943, c. 21945, Section 6, as amended, *infra*, p. 25) makes it a misdemeanor to violate "any rule, regulation or order of the game and fresh water fish commission adopted pursuant to § 30, article 4, of the constitution of this State."[2]

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[2] On July 19, 1954, the Commission by formal resolution determined Sections 372.83, 372.021 and other related acts of the Florida legislature "to be in aid of and not inconsistent with the Rules and Regulations of the Game and Fresh Water Fish Commission and the same are hereby specifically adopted and confirmed both as Rules and Regulations of the Game and Fresh Water Fish Commission and valid and constitutional statutory enactments of the Legislature of the State of Florida."

THE QUESTION IS SUBSTANTIAL

The question is substantial because the Federal Black Bass Act is an important conservation measure the operation and effect of which would, under the decision below, be nullified in a large number of the states. The Act was originally passed in 1926 because State conservation laws regulating bass were being flouted by commercial shippers who were immune when their shipments crossed state lines. Since then, the coverage of the Act has been enlarged to include all game species, as well as commercial fish. The decision below would largely void the operation of the Act in this latter area since regulation of fresh water fish resources is vested, in a majority of the states, in Commissions. According to Bulletin No. 26 issued by the Sport Fishing Institute in January 1954, full regulatory authority is vested in twenty-eight states in Commissions. In twelve states, commissions share the responsibility with legislatures. Only six states currently reserve full regulatory authority to the legislature alone.[3] Should the District Court's interpretation of Section 2 of the Bass Act stand, enforcement of that statute would thus be nullified in the greater part of the country and its purpose of

[3] As to the other two, one state vests authority entirely in an administrative official, though exercised in practice in close cooperation with the commission; in the other the authority is divided between the administrative official and the legislature (the commission is advisory only in this state).

aiding the states in the implementation of their conservation programs (as well as furthering the national program) would be largely frustrated.[4]

1. The narrow interpretation placed by the district court on the term "law of the State" appearing in the federal Act, which excludes administrative regulations from its purview, is clearly erroneous, particularly in view of the status of the regulations of the Florida Game and Fresh Water Fish Commission under Florida law. In that state the regulations of the Commission are expressly made binding law, and should, therefore, certainly be considered as the "law of the State" within the purview of the federal Act.

a. The Florida constitutional amendment provides:

> * * * the * * * regulation of * * * fresh water fish of the State of Flor-

[4] The decision below would also affect other conservation measures. 18 U. S. C. 43 penalizes the transportation or importation of wild animals or birds or their carcasses, in violation of state, national or foreign laws. Under the reasoning of the court below, the rules of states regulating such resources by commissions, would not be within the protection of the federal statute. By the same reasoning, the regulations of the Secretary of the Interior with respect to the hunting, possession, sale, purchase or transportation of migratory birds, as authorized by 16 U. S. C. 704, would not be considered "laws" the violation of which would be punishable under 18 U. S. C. 43.

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> ida * * * shall be vested in a Commission to be known as the Game and Fresh Water Fish Commission. * * * Among the powers granted to the Commission * * * shall be the power to * * * regulate the manner * * * of taking, transporting, storing and using * * * fresh water fish, reptiles, and amphibians. * * * The Legislature may enact any laws in aid of, but not inconsistent with, the provisions of this amendment, and all existing laws inconsistent herewith shall no longer remain in force and effect.

As noted above (*supra,* p. 5), two state statutes support this grant of authority: 14 F. S. A., Section 372.021, "empowers" the Commission to exercise the powers granted it by the Constitution and prescribes methods for promulgation of its regulations, and 14 F. S. A., Section 372.83, provides that violation of the regulations constitutes a misdemeanor.

The Supreme Court of Florida, whose decisions on this issue are finally authoritative for Florida,[5] has consistently held that the Commission's power to regulate game and fresh water fish is supreme and that its regulations are the law of Florida.

Thus in *Bronson* v. *State of Florida,* decided January 6, 1956, 83 So. 2d 849, the Supreme Court

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[5] See *Geer* v. *Connecticut*, 161 U. S. 519, 522; *West* v. *American Telephone and Telegraph Co.*, 311 U. S. 223, 236; *Nashville, C. and St. L. Ry.* v. *Browning*, 310 U. S. 362, 369.

of Florida rejected the contention that a conservation agent of the Game and Fresh Water Fish Commission lacked power to arrest on the ground of an alleged absence of probable cause to believe that a law of the state, as distinguished from a regulation of the Commission, was being violated. The information had charged Bronson with resisting the agent when he attempted to place him in custody for violating in the officer's presence the *laws* of the state "as fixed by the * * * Game and Fresh Water Fish Commission * * * regulating the manner and method of taking reptiles * * *" (emphasis added). The court reaffirmed its earlier pronouncements that the regulations, in their relationship to conflicting statutes on the subject, constituted the "governing law".

To the same effect are decisions holding that, in areas within the jurisdiction of the Commission, the Legislature's power to regulate is reduced to an auxiliary one, valid only when consistent with the Commission's regulations, *e. g., Beck* v. *Game and Fresh Water Fish Commission,* 160 Fla. 1, 33 So. 2d 594, holding that statutes which declared certain waters to be in fact salt (thereby removing them from the jurisdiction of the Game and Fresh Water Fish Commission and placing them under the State Board of Conservation) were void as violative of the constitutional provisions creating the Com-

mission. See also *Griffin* v. *Sullivan,* 158 Fla. 870, 30 S. 2d 919; *Price* v. *City of St. Petersburg,* 158 Fla. 705, 29 So. 2d 753; *Bell* v. *Vaughn,* 155 Fla. 551, 21 So. 2d 31.

In *Sylvester* v. *Tyndall,* 154 Fla. 663, 18 So. 2d 892, the court noted that it could be held that the constitutional amendment itself authorized the Commission to adopt rules and regulations to effect the purposes of the amendment, and that the statute which implemented the amendment, in accordance with the amendment's direction, *viz.,* Chapter 21945, Acts of 1943, formerly 14 F. S. A. 372.82, now 14 F. S. A. 372.021, was likewise constitutionally valid. The court spoke of Florida's sovereign right and duty in the matter of game and fish conservation, and took judicial notice of the historical background of the constitutional amendment—"the many years in which the legislature had tried in vain to adequately deal with the subject matter of this amendment by local or special acts * * *, and the conviction finally arrived at by the legislature and the people that this matter of game and fish conservation and regulation was a statewide problem and one that could only be properly solved by a long range program to be carried into effect by a State Commission—a new administrative department of the State Government—equipped with powers adequate to the purpose for which it was to be, and was, created."

In summary, these decisions hold that under the Florida Constitution the sole authority for regulation of fresh water fish in Florida is in the Fresh Water Fish Commission; that this constitutional grant is supported, if such be necessary, by the statute which again states that the Commission may exercise the powers granted it by the Constitution; and that the regulations are given sanction by the statute which penalizes violations. The absolute supremacy and sole authority of the Commission's regulations is affirmed without dissent. The State of Florida took from the legislature the power to regulate this segment of the state's natural resources, and placed it in the Commission as it undoubtedly had power to do. If Florida's power over this subject matter is not to be wholly lost, it must be found in the regulations of the Commission. Its regulations are the law of Florida in this field.

b. Even without the special force which the Florida Constitution confers on its Commission, the regulations issued by a state commission pursuant to authority conferred upon it by a legislature have, under well-established principles, the force and effect of law.

It has been held that the expression "Federal law" generally includes any regulation promulgated by lawful authority, in addition to federal statutes. *Roumanian American Winery, Inc.* v. *Morgenthau*, 152 F. 2d 452, 453 (C. A. 2). Simi-

larly, the Florida courts have held, in general, that the rules of an administrative agency made under power conferred by statute have the force and effect of law. *Florida Livestock Board* v. *Gladden,* Supreme Court of Florida, 76 So. 2d 291; *In re Briley Estate,* 155 Fla. 798, 21 So. 2d 595. The principle is, of course, well established in the decisions of this Court. *Lilly* v. *Grand Trunk R. Co.,* 317 U. S. 481, 488; *Atchison, T. & S. F. Ry. Co.* v. *Scarlett,* 300 U. S. 471, 474, rehearing denied, 301 U. S. 712. Exceptions from the principle must find justification in the special purpose or scope of the enactment using the term "law." Cf. *Phillips* v. *United States,* 312 U. S. 246 ("statute"). No such limitation has been, or can be, suggested here. See *infra,* pp. 12–16.

A regulation issued pursuant to constitutional authority is of even greater dignity than a regulation issued under a legislative enactment. Hence, the decision of the district court excluding from the term "law of the State," as used in the Black Bass Act, administrative regulations made pursuant to state constitutional provisions, is contrary to accepted principles for reading statutes.

2. When the Federal Black Bass Act is considered in the light of its manifest purpose, as revealed in its legislative history, the validity of interpreting the term "law of the State" to include regulations of state commissions becomes even clearer.

The original Act of 1926 was limited to black bass. Both the Senate and House Reports accompanying the bill stated:[6]

> It will strengthen the laws of any State wherein the taking of bass commercially is prohibited. In some States, where such law is now on the statute books, its effect is nullified by the fact that black bass are shipped out of the State in barrels, with rough fish at the top and bottom and the bass in between.
>
> A State which, for conservation purposes, denies for a limited period the sale of black bass to its own citizens frequently finds that its State enactments are nullified by bass being taken from the waters of its own State, where its commercial use is prohibited to its own citizens, and transported from that State and sold to the citizens of another State; thus destroying the State conservation program and giving to the citizens of another State the benefit of commercial consumption which is denied its own citizens.

A letter accompanying the committee reports on this bill, addressed to the Secretary of Commerce by the Commissioner of the Federal Bureau of Fisheries, and forwarded by the Secretary to the Committee, states:

> In such boundary waters as the Potomac River it has been especially difficult for

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[6] S. Rep. No. 612, 69th Congress, 1st Sess. (1926), and H. Rep. No. 31, 69th Congress, 1st Sess. (1925).

> the State authorities to control the situation. During the winter months when the bass are congregated together in the deeper waters in a more or less dormant condition it is not difficult for the fishermen to seine these fishes in such quantities as to seriously deplete the supply. If, as provided by the terms of this bill, their shipment out of States in which their sale is illegal is prohibited, better control over the natural supply will be possible.

Both reports mentioned also that the Act was modeled after the Lacey Act, originally passed in 1900, 31 Stat. 187, 188, which prohibited transportation of birds and animals killed or shipped in violation of the laws of the state in which they were killed or from which they were shipped.

Following an amendment in 1930 to provide adequate machinery for enforcement (46 Stat. 845, S. Rep. No. 75, 71st Cong., 2d Sess.; H. Rep. No. 1610, 71st Cong., 2d Sess. (1930)), the Black Bass Act was amended again in 1947, 61 Stat. 517, to make its provisions applicable to all game fish. The basic purpose was reiterated in the reports accompanying the Bill:

> The bill is intended to supplement State laws applying to protection of game fish. * * * State laws become ineffectual when fish taken in violation of the law cross the State line. If we are to protect game fish, an important natural resource, the Fed-

> eral Government must collaborate in the enforcement of protective laws and regulations at the point where State jurisdiction ends.'

A letter from the Under Secretary of the Interior accompanying the reports again noted that existing legislation (the Lacey Act) made unlawful the interstate transportation of wild animals and birds taken contrary to state laws, and that the only legislation with respect to game fish covered only one species, namely, black bass.

In 1952, the Act was again amended to extend its provisions to commercial as well as game fish. 66 Stat. 736; see H. Rep. 2148, 82nd Cong., 2d Sess. (1952).

Thus the history of the Federal Black Bass Act conclusively shows that it was designed to buttress the lawmaking power of the states with respect to forbidden types of commercial use of their fish resources, at the point where such state power was weak. There is no concern evident in such history—nor could there logically be—with the question whether such state power was directly exercised by statute, or through administrative regulations based on statutes.

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[1] S. Rep. No. 288, 80th Cong., 1st Sess.; H. Rep. 986, 80th Cong., 1st Sess. (1947). At this time the phrase "or is contrary to other applicable law" was added to make the provisions of the act operative to fish transported in violation of laws governing national parks and Indian reservations.

Whatever might be said of the intent of Congress when it used the words "law of the State" in 1926, before the development of administrative regulation in this conservation field, by the time of the amendments in 1947 and 1952 Congress was aware that the "law" of many states was in the form of regulations. Both the Senate and House reports on the 1947 amendment stated that "the Federal Government must collaborate in the enforcement of protective *laws and regulations* at the point where state jurisdiction ends [emphasis added]." Yet in both the later amendments Congress again used the generic term "law" when, had it wished to limit its meaning to statutes, it could easily have said so.

Congress manifestly intended the federal statute to aid the exercise of state authority in this field, whether it took the form of a statute or a regulation having the force of law. Statutes are to be given a reasonable interpretation in relation to their purpose. *United States* v. *American Trucking Association,* 310 U. S. 534, 543. The purpose of this statute to prevent evasion of state (and thus national) programs for conservation of game fish by out-of-state shipment on the part of commercial fisheries such as appellee should not be frustrated by the narrow and unreasonable interpretation given the words "law of the State" by the district court.

CONCLUSION

It is respectfully submitted that this Court should take jurisdiction of this appeal, since the District Court's interpretation of the statute is clearly erroneous and the question presented is substantial. Indeed, we submit that the decision is so clearly erroneous that the Court might well see fit to reverse the decision below on the basis of this Jurisdictional Statement, without oral argument.

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MARCH 1956.

APPENDIX A

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA, ORLANDO DIVISION

UNITED STATES OF AMERICA *vs.* LUDENIA HOWARD, trading as Stokes Fish Company, Case No. 910 Orl. Cr.

ORDER ON MOTION TO QUASH INFORMATION

This causing coming on for hearing upon Defendant's Motion to Quash Information, and the same having been argued by counsel, and it being called to the Court's attention that there is no law of the State of Florida prohibiting the transportation of the fish described in the said Information, and the Court taking judicial notice that there is no such law; but the only prohibition against the same being the rules of the State Game and Fresh Water Fish Commission; and it being the further opinion of the Court that the rules and regulations of the said Game and Fresh Water Fish Commission do not constitute the law of the State of Florida as described by and contemplated in Section 852, Title 16, United States Code, which violation was specifically charged in the Information filed herein; it is, therefore

ORDERED, ADJUDGED and DECREED that the said Information be, and the same is hereby quashed, and the Defendant discharged.

DONE and ORDERED in Chambers at Orlando, Florida, this 29th day of December, A. D., 1955.

WILLIAM J. BARKER,
As Judge of the above court.

APPENDIX B

The Federal Black Bass Act of May 20, 1926, c. 346, Sections 2 and 7, 44 Stat. 576, as amended, 46 Stat. 845, 61 Stat. 517, 66 Stat. 736, provides:

> Section 2. It shall be unlawful for any person to deliver or knowingly receive for transportation, or knowingly to transport, by any means whatsoever, from any State, Territory, or the District of Columbia, to or through any other State, Territory, or the District of Columbia, or to or through any foreign country, any black bass or other fish, if (1) such transportation is contrary to the law of the State, Territory, or the District of Columbia from which such black bass or other fish is or is to be transported, or is contrary to other applicable law, or (2) such black bass or other fish has been either caught, killed, taken, sold, purchased, possessed, or transported, at any time, contrary to the law of the State, Territory, or the District of Columbia in which it was caught, killed, taken, sold, purchased, or possessed, or from which it was transported or contrary to other applicable law; and no person shall knowingly purchase or receive any such black bass or other fish which has been transported in violation of the provisions of this Act; nor shall any person receiving any shipment of black bass or other fish transported in interstate commerce make any false record or render a false account of the contents of such shipment.

Section 7. In addition to any forfeiture herein provided, any person who shall violate any of the provisions of this Act shall, upon conviction thereof, be punished by a fine of not exceeding $200, or imprisonment for a term of not more than three months, or by both such fine and imprisonment, in the discretion of the court.

Article IV, Section 30, of the Constitution of Florida, provides in pertinent part:

§ 30. *Game and fresh water fish commission; term; compensation; powers; director; state game fund.*

1. From and after January 1, 1943, the management, restoration, conservation and regulation of the birds, game, fur bearing animals, and fresh water fish of the State of Florida, and the acquisition, establishment, control and management, of hatcheries, sanctuaries, refuges, reservations, and all other property now or hereafter owned or used for such purposes by the State of Florida, shall be vested in a Commission to be known as the Game and Fresh Water Fish Commission. Such Commission shall consist of five members, one from each congressional district, as existing on January 1, 1941, who shall be appointed by the Governor, subject to confirmation by the Senate. The members so appointed shall annually select one of their members as Chairman of the Commission.

* * * * *

4. Among the powers granted to the Commission by this Section shall be the power to fix bag limits and to fix open and closed seasons, on a state-wide, regional or

local basis, as it may find to be appropriate, and to regulate the manner and method of taking, transporting, storing and using birds, game, fur bearing animals, fresh water fish, reptiles, and amphibians. The Commission shall also have the power to acquire by purchase, gift, all property necessary, useful, or convenient, for the use of the Commission in the exercise of its powers hereunder.

* * * * *

7. The Legislature may enact any laws in aid of, but not inconsistent with, the provisions of this amendment, and all existing laws inconsistent herewith shall no longer remain in force and effect. All laws fixing penalties for the violation of the provisions of this amendment and all laws imposing license taxes, shall be enacted by the Legislature from time to time. [Added, general election, 1942.]

14 Florida Statutes Annotated, Section 372.021, Laws 1943, c. 21945, Sections 4 and 5 provide in pertinent part:

The game and fresh water fish commission may exercise the powers, duties and authority granted by § 30, article IV, of the constitution of Florida, by the adoption of rules, regulations and orders, or otherwise in its discretion, which said rules, regulations and orders shall be promulgated in the manner following:

(1) All general codes of rules, regulations and orders, and all revisions thereof and amendments and additions thereto, of state-wide application, made and adopted by the commission shall be promulgated by the director of the commission, by filing a certified copy thereof in the office of the

secretary of state of this state and a certified copy thereof in the office of each county judge of this state, and by the publication of a notice one time in each of the congressional districts of the State of Florida in a newspaper published in and having general circulation in such district, notifying and advising the people of the State of Florida such code of rules, regulations and orders, or revisions, amendments or additions thereto, have been made and adopted by the commission and a certified copy thereof is on file in the office of the secretary of state and also in the office of each county judge in the state, and a copy thereof may be obtained from the commission at its office in the City of Tallahassee, Florida.

(2) Such general code of rules, regulations and orders, and all revisions, amendments and additions thereto, shall become effective thirty days after the filing of a certified copy in the office of the secretary of state.

(3) All rules, regulations and orders, and all revisions thereof and amendments and additions thereto, of less than statewide application, made and adopted by the commission, shall be filed in the office of the secretary of state and notice thereof shall be published by the director of the commission, one time in a newspaper of general circulation published in the area or areas affected by such rule or regulation, within ten days from the date of the adoption thereof. Such rules, regulations and orders, and all revisions thereof and amendments and additions thereto shall become effective twenty days after being

filed in the office of the secretary of state, and by publication as aforesaid the director of game and fresh water fish commission shall give notice such rules and regulations, and revisions thereof and amendments and additions thereto, have been adopted and may be obtained by all interested persons from the county judges of the counties within the areas affected, or from the office of the commission in Tallahassee, Florida.

(4) A copy of all rules, regulations and orders and codes of rules, regulations and orders, and all revisions, amendments and additions thereto, whether of state-wide or limited application, shall be certified by the director of game and fresh water fish commission and shall be filed with the secretary of state within ten days after the adoption thereof, and in addition thereto, the said director shall, within the said ten-day period, file in the office of each county judge of this state a true and correct copy of all rules, regulations and orders and all revisions, amendments and additions thereto. A copy of said rules, regulations and orders, and revisions, amendments and additions thereto, or any portion or portions thereof, certified by the secretary of state under the great seal of the State of Florida, or by the director of the game and fresh water fish commission under the seal of the commission, shall be received as evidence in all courts of this state without further authentication; provided, nothing herein shall be construed as preventing or prohibiting the courts from taking judicial knowledge thereof.

(5) The provisions of subsections (1), (3) and (4) relating to promulgation and filing are directory and not mandatory.

14 Florida Statutes Annotated, Section 372.83, Laws 1943, c. 21945, Section 6, as amended, provides:

> Any person violating any rule, regulation or order of the game and fresh water fish commission adopted pursuant to § 30, article IV, of the constitution of this state and this chapter shall be guilty of a misdemeanor.

Rule 14.01 of the Rules and Regulations of the Game and Fresh Water Fish Commission of Florida provides:

> No person or persons shall sell, attempt to sell, offer for sale, barter, purchase, offer to purchase, attempt to purchase, or exchange for merchandise or transport, transport for sale, or transport out of the State of Florida any large or small mouth black bass, speckled perch, jack, shell cracker, warmouth perch, red breast, pike, stump knocker, sun fish, or Canadian sunfish, or any other species of bream; provided, that holders of valid fishing licenses may carry out of the State or transport as personal baggage their legal bag limit thereof; and provided further that the Director may issue permits for transportation of black bass, speckled perch, jack, bream, shell cracker, warmouth perch, red breast, pike, stump knocker, or any other species of bream within or out of the State of Florida for propagation or scientific purposes only. No common carrier shall knowingly transport or receive for transportation within the State of Florida any black bass, speckled perch, jack, bream, shell cracker, warmouth perch, red breast, pike, stump knocker, or any other species

of bream. It is the intention of this Rule to prohibit within the limits of the State of Florida the sale, transportation and/or shipment of any species of fresh water game fish indigenous to the waters of the State of Florida, as well as other fresh water game fish the sale or offering for sale of which would impede or interfere with the enforcement of the Rules and Regulations of the Commission with respect to the taking, possession and the sale of fresh water game fish of the same or apparently the same species, whether such fresh water game fish were caught from the waters within the State of Florida or elsewhere, except as otherwise provided in the Rules.